

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.Bharuka

WRIT PETITION NO.30907 OF 1997

BETWEEN:

T. Thimmaiah,
s/o Thimmesiddaiah,
Major, S.D.A.
Sri Krishna Pre-University
College of Arts, Science and
Commerce, Dabaspet,
Nelamangala Taluk,
Bangalore Rural District.PETITIONER

(By Sri R.Padmanabha, Adv.)

AND:

1. The State of Karnataka,
represented by its Secretary,
Education Department,
M.S.Building, Bangalore.
2. The Director,
Pre-University Education Board,
Palace Road, Bangalore-1.
3. The Secretary,
Sri Krishna Education Society (R),
Mahalakshminagar (Batawadi),
Tumkur-572 103.
4. The Principal,
Sri Krishna Pre-University College,
of Arts, Science and Commerce,
Dabaspet, Nelamangala Taluk,
Bangalore Rural District.RESPONDENTS

(By Sri G.Papi Reddy, AGA for R-1 & R-2)

Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order dated 27.9.1997 bearing No.SKES.15/97-98 issued by the 3rd respondent vide Annexure-B with a further direction to the respondents to continue the services of the petitioner as before and to pay him the salary and for grant of such other reliefs.

This petition coming on for preliminary hearing this day, the Court made the following:

O R D E R

The petitioner claims to have been appointed by respondent No.4-The Principal of the private educational institution. He is ~~also~~ aggrieved by the non-payment of the salary.

2. In view of the judgment of the Division Bench of this Court in W.A.Nos.1833 to 1836/95 and other connected appeals, disposed of on 30.5.1998, this writ petition is not maintainable. The petitioner ^{the remedy as per} has to resort to para 12 of the judgment which reads:-

"As regards the locus standi of the staff working in the aforesaid educational institutions, to maintain the writ petitions, they have got the remedy of appeal under Section 24 of the Education Act against an order of dismissal or removal from service or reduction in rank. Under Section 130, appeal is provided against any order passed by an Officer or authority under the Act. Section 131 provides for revision by Government either suo moto or on an application from any person interested. Section 132 of the Education Act provides for review by the State Government either suo moto or on an application received from any person interested. The Government is also vested with the power to give direction under Sec.133 of the said Act to make enquiry or take appropriate proceeding by the Commissioner or Director or any other Officer not below the rank of District Educational Officer and to submit report. Thus the Education Act provides for

appeal, revision and review in respect of any order and in the absence of any order the Government can be moved for issuing necessary direction in exercise of its power under Section 133 and the staff can avail the remedies. Even with regard to payment of salary, what is stated above with regard to the teaching and non-teaching staff applies to the other staff also. Without exhausting such alternative remedy, they cannot be permitted to invoke the extraordinary jurisdiction of this Court under Art.226 of the Constitution."

3. In the said view of the matter, the writ petition is dismissed with liberty to the petitioner to avail the remedy open to him under the Act. If any such appeal, revision, or application for direction is filed before the authorities under the said Act within ~~one month~~^{Six Weeks}, then the same should be disposed of after hearing the management within three months of the filing of the same.

Sd/-
JUDGE

